

**BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: September 20, 2006

Division: Employee Services

Bulk Item: Yes X No     

Department: Employee Benefits Office

Staff Contact Person: Maria Z. Fernandez-Gonzalez

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**AGENDA ITEM WORDING:** Approval of contract renewal with Preferred Governmental Claims Solutions (PGCS) for third party administration of the Workers' Compensation Program.

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**ITEM BACKGROUND:** PGCS originally contracted with MCBOCC April 1996; RFP done 2003 with a contract granted October 2003; RFP done 2006 recommending continuation of contract with PGCS.

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**PREVIOUS RELEVANT BOCC ACTION:** Second-year contract renewal (10/05 through 09/06) was approved by BOCC January 2006.

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**CONTRACT/AGREEMENT CHANGES:** Increase in annual flat rate fee to \$90,000.

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**STAFF RECOMMENDATIONS:** Approval

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**TOTAL COST:** \$90,000

**BUDGETED:** Yes X No     

**COST TO COUNTY:** \$90,000

**SOURCE OF FUNDS:** Primarily Ad Valorem

**REVENUE PRODUCING:** Yes      No X **AMOUNT PER MONTH**      **Year**     

**APPROVED BY:** County Atty X OMB/Purchasing X Risk Management X *MS*

**DOCUMENTATION:** Included X To Follow      Not Required     

**DISPOSITION:**     

**AGENDA ITEM #**

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

**CONTRACT SUMMARY**

Contract # \_\_\_\_\_  
 Contract with: Preferred Governmental Effective Date: October 1, 2006  
Claims Solutions (PGCS)  
 Expiration Date: September 30, 2007  
 Contract Purpose/Description: Approval to renew contract for the term of one year.

Contract Manager: 4448 Employee Services  
Maria Z. Fernandez-Gonzalez  
 (Name) (Ext.) (Department)

for BOCC meeting on September 20, 2006 Agenda Deadline: September 5, 2006

**CONTRACT COSTS**

Total Dollar Value of Contract: \$90,000 Current Year Portion: \$ \_\_\_\_\_  
 Budgeted? Yes ☒ No ☐ Account Codes: 501-07502-530310- \_\_\_\_\_  
 Grant: \$ \_\_\_\_\_  
 County Match: \$ \_\_\_\_\_

**ADDITIONAL COSTS**

Estimated Ongoing Costs: \$ \_\_\_\_\_/yr For: \_\_\_\_\_  
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

**CONTRACT REVIEW**

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>9-1-06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>9-1-06</u>
Risk Management	<u>9-6-06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Slawick</u>	<u>9-6-06</u>
O.M.B./Purchasing	<u>9/7/06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>9/7/06</u>
County Attorney	<u>9-5-06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>9-6-06</u>

Comments: \_\_\_\_\_



**BOARD OF COUNTY COMMISSIONERS**

MAYOR Charles "Sonny" McCoy, District 3  
Mayor Pro-tem Dixie M. Spehar, District 1  
George Neugent, District 2  
Mario DiGennero, District 4  
George Patton, District 5

Employee Services Division

***Benefits Office***

1100 Simonton Street, Suite 2-268

Key West, Florida 33040

Phone (305) 292-4448

Facsimile (305) 292-4452



**MEMORANDUM**

To: Monroe County Board of Commissioners

Thru: Teresa E. Aguiar, Division Director, Employee Services

From: Maria Z. Fernandez-Gonzalez, Sr. Administrator, Benefits

Date: September 1, 2006

Re: Contract Renewal with Preferred Governmental Claims Solutions (PGCS)

*[Handwritten signatures: Teresa E. Aguiar and Maria Z. Fernandez-Gonzalez]*

Approval is being requested for the renewal of current contract with Preferred Governmental Claims Solutions (PGCS) for third party administration of the Workers' Compensation Program for Monroe County.

Monroe County originally contracted with PGCS in April 1996. Services were re-bid in 2003 and the recommendation at that time was to renew the existing contract. At the direction of the Board an RFP was done June 2006 for Third Party Claims Administration.

Eight individual firms submitted proposals with the majority of them offering several options for the County to consider. The PGCS and Unisource proposals were viewed as the most attractive proposals received.

When evaluating a claim administration program, a number of subjective factors must be considered. PGCS and the County have invested considerable time and effort to ensure their employees who have suffered a work related injury or illness receives quality and prompt medical attention. A change in administrators could cause some of these benefits to be lost and have to be redeveloped over time and this could result, not only in undue hardship to our employees, but the costs of medical claims would undoubtedly increase for a period of time. Employees who have suffered a work related injury or illness have certain expectations on how their claim should be handled. If these expectations are not met, it could result in the injured employee obtaining the services of an attorney which will again drive up the cost of the claims.

Despite the fact that Unisource presented an attractive proposal, a change of claims administrators could result in an increase in the workers' compensation claims that would more than offset the lower price that is being offered. For these reasons, coupled with the long standing relationship that has been developed with the County staff and its employees it is being recommended that Preferred Governmental Claims Solutions continue as the County's Third Party Administrator of the Workers' Compensation Program for the period of October 1, 2006 through September 30, 2007.

**MONROE COUNTY, FLORIDA**  
**2006/2007**  
**THIRD PARTY CLAIMS ADMINISTRATION**  
**EVALUATION OF PROPOSALS**

Monroe County is an authorized self-insurer in the State of Florida for its Workers' Compensation Insurance. The structure of the County's current program requires it to assume the first \$1 million of each claim with Excess insurance being purchased that will pay all sums in excess of this amount.

As a self-insured, the County is obligated to administer the claims that are within their self-insured retention. Since 1996 Preferred Governmental Claims Solutions (PGCS) and its predecessor, Insurance Services Adjusting Company (ISAC) has served as the County's claims administrator. PGCS is recognized as one of the leading claims administrators for governmental entities within the State of Florida. The base fee paid to PGCS for the 2005/06 contract year was \$78,000. This obligated PGCS to administer all claims that occurred between October 1, 2005 and September 30, 2006 until they were concluded as long as there is a contractual relationship maintained between the two entities. If the County selects another firm to administer its claims, PGCS will return all active claims and arrangements for their continued handling will have to be made. In all probability these active claims will be transferred to the new claims administrator who will assume the responsibility of the claims at a separate negotiated price.

In addition, the laws governing Workers' Compensation insurance establish maximum fees a health care provider can charge when treating injured employees. To comply with this requirement, all medical bills are reviewed and adjusted in accordance with a fee schedule produced by the State annually. While some claims administrators have employees to provide this bill reduction services, many (including PGCS) outsource this activity to an independent firm. In either case, additional fees are normally assessed for these services. Currently, the County is assessed a fee of \$1.30 for each line item on the medical bill (subject to a maximum of \$10,000 annually). The County is also subject to other miscellaneous cost items that bring the estimated annual amount paid to administer its claims to \$89,850.

In accordance with the County's purchasing procedures, competitive proposals were obtained for the 2006/2007 contract year. The process began with the development of detailed bid specifications that outlined the required services and information necessary for interested firms to develop their proposals. A public notice of the County's intent to receive proposals was placed in local news publications and the specifications were posted on Demand Star. A total of nine (9) firms expressed an initial interest in becoming the County's claims administrator and requested the County's historical claim data

An addendum to the bid specifications was distributed to all interested parties on June 23, 2006 responding to the requests for additional information that were submitted. Proposals that were received were publicly opened on July 26, 2006 by the County's Purchasing Department. Eight (8) individual firms submitted proposals with the majority of them offering several options for the County to consider. It is believed that all companies submitting a proposal have the experience and technical expertise to serve the needs of the County. A detailed analysis of each proposal received is attached and made a part of this report. Following is a narrative discussion of each proposal received.

### **PMA Management Corporation**

PMA offered four (4) pricing options. Under the first option, the County would pay PMA a flat annual fee of \$49,500 to administer any and all claims that occur between October 1, 2006 and September 30, 2007 until they are concluded as long as a contractual relationship between the County and PMA existed. In addition, an annual administration fee of \$3,500 and a fee of \$5,000 per year would be charged for producing loss experience reports. PMA would also be entitled to retain 25% of all savings realized by the reduction of all medical bills to the State Fee Schedule. Based on the County's historical data, this would amount to approximately \$126,932. The projected annual cost to the County for this option would be \$176,432.

PMA's second option would require PMA to administer all claims until they were ultimately resolved if they were retained as the County's claims administrator. Under this option, PMA would still be entitled to the \$3,500 administration fee and a \$5,000 fee for producing loss experience reports discussed under the first option. They would also retain 25% of all savings realized by the reduction of all medical bills to the State Fee Schedule. The projected annual cost for this option would be \$184,932.

PMA's third option was similar to its first option, however, instead of charging a flat annual fee, the County would pay them \$650 for each lost time claim processed and \$110 for each medical only claim processed. In addition, PMA would charge the County \$275 for each lost claim and \$85 for each medical only claim that was previously handled by PGCS and remained open as of October 1, 2006. PMA would also charge the administration fee and the loss experience reporting fees discussed above. They would also retain 25% of all savings realized by the reduction of the medical bills to the State Fee Schedule. The annual projected cost of this option would be \$191,112.

PMA's fourth and final option would be structured similar to their third option but require them to administer the claims until conclusion regardless if they were retained as the County's claims administrator. The annual projected cost of this option would be \$198,752.

Since the County received more favorably priced proposals from other proposers with equal or superior qualities, it is recommended that PMA be eliminated from further consideration.

### **Gallagher Bassett**

Gallagher Bassett submitted two options for consideration. The first option would require them to administer the claims as long as a contractual relationship existed between Gallagher and the County. Under this option, the County would pay Gallagher \$939 for each lost time claim and \$119 for each medical only claim. In addition a fee of \$21 for each claim reported would be charged for the purposes of preparing loss experience reports. The County would also be required to pay an annual administration fee of \$8,750. Gallagher would also charge a fee of \$8.50 for each medical bill reduced to the State Fee Schedule. Assuming Gallagher would be utilized to administer the claims that remained open as of October 1, 2006, separate fees amounting to \$525 for lost time claims and \$70 for medical only claims would be assessed. The annual projected cost of this option would be \$124,151.

Gallagher's second option was similar to its first option but would require them to administer all claims until they were ultimately concluded. The projected annual cost of this option would be \$128,151.

Since the County received more favorably priced proposals from other proposers with equal or superior qualities, it is recommended that Gallagher Bassett be eliminated from further consideration.

#### **CMI Octagon**

CMI only submitted one (1) proposal that included the administration of the claims until conclusion as long as a contractual relationship between the County and CMI existed. A fee of \$910 for each lost time claim and \$125 for each medical only claim would be charged. In addition, CMI would charge a fee of \$10 for each medical bill reduced to the State Fee Schedule. Assuming the active claims as of October 1, 2006 would be transferred to CMI, a fee of \$420 for each lost time claim and \$50 for each medical only claim would be charged. The projected annual cost of CMI's services is \$114,085.

Since the County received more favorably priced proposals from other proposers with equal or superior qualities, it is recommended that CMI Octagon be eliminated from further consideration.

#### **Frank Gates**

Frank Gates only submitted one (1) proposal that included the administration of the claims until conclusion as long as a contractual relationship between the County and Frank Gates exists. A fee of \$1,300 for each lost time claim and \$130 for each medical only claim would be charged. In addition, a charge of \$10 for each line item on the medical bills would be made to reduce them to the State Fee Schedule. Frank Gates' proposal did not address the fee that would be charged for the assumption of the claims that remained active as of October 1, 2006. While it could not be determined what the ultimate cost of Frank Gates' proposal would be, it is known that it would be in excess of \$76,825.

Since the ultimate cost of Frank Gates' proposal could not be determined and that it appeared (based on their proposal) that they have limited experience in handling Florida claims, it is being recommended that Frank Gates be eliminated from further consideration.

#### **Specialty Claim Services**

Specialty Claim Services only submitted one (1) proposal that included the administration of the claims until conclusion regardless of the contractual relationship being maintained between the County and Specialty Claim. A fee of \$1,410 for each lost time claim and \$258 for each medical only claim would be charged. This fee would include the reduction of the medical bills to the State Fee Schedule. Assuming the active claims as of October 1, 2006 would be transferred to Specialty Claim Services, a fee of \$1,049 for each lost time claim and \$185 for each medical only claim would be charged. The projected annual cost of the services proposed by Specialty Claim is \$132,740.

Since the County received more favorably priced proposals from other proposers with equal or superior qualities, it is recommended that Specialty Claim Services be eliminated from further consideration.

#### **Crawford & Company**

Crawford submitted four (4) options for consideration. The first option would require Crawford to administer the claims until they are concluded, regardless of the continued contractual relationship between them and the County. The base price for this option would be \$1,379 for lost time claims and \$134 for medical only claims. In addition, Crawford would charge \$1.60 per line (with a minimum of 4 lines per bill) for the reduction of the medical bills to the State Fee Schedule.

Crawford would also charge an annual fee of \$2,000 as a management fee and \$12,000 a year to produce loss experience reports.

If Crawford were to assume the claims that were previously administered by PGCS, they would charge the County \$1,379 for each lost time claim and \$134 for each medical only claim. The projected annual cost of this option would be \$159,666.

Crawford's second option was identical to their first option except their responsibility to administer the claims would end if the County discontinued using them as their administrator. The fee to handle lost time claims under this option would be \$1,313 and the fee to handle medical only claims would be \$134. The annual projected cost of this option would be \$143,346.

Crawford's third option was the same as the first two, except the per claim fee would only be for the administration of the claim for one year. The projected annual cost of this option would be \$112,318. It should be recognized that the projected annual cost of this option is somewhat misleading. In addition, to the fee to handle new claims, the County would have to pay Crawford additional fees for to administer the claims that occurred in the prior year and are remaining open. The fee for the continued administration of these claims was not disclosed and would be subject to negotiations after the contract year ended.

Crawford's fourth option was the same as the first three, except the per claim fee would only be for the administration of the claim for a two year period. The projected annual cost of this option would be \$133,402. As with the third option the projected annual cost of this option is somewhat misleading. In addition, to the fee to handle new claims, the County would have to pay Crawford additional fees for to administer the claims that occurred in the prior years and are remaining open. The fee for the continued administration of these claims was not disclosed and would be subject to negotiations after the contract year ended.

Since the County received more favorably priced proposals from other proposers with equal or superior qualities, it is recommended that Crawford & Company be eliminated from further consideration.

#### **Preferred Governmental Claims Solutions and Unisource Administrators**

The proposals from Preferred Governmental Claims Solutions (PGCS) and Unisource Administrators were reserved for last and will be discussed together since they were viewed as the most attractive proposals received.

As indicated in the introductory portion of this report PGCS has been the County's claims administrator since 1996 and has provided quality service for Monroe County. They offered two options for the County to consider. Both options anticipate that they will administer the claims that occur between October 1, 2006 and September 30, 2006 for a specified price as long as a contractual relationship exists between the two parties. Since they are the current claims administrator and the prior contract(s) obligated them to administer all claims until conclusion as long as they continued as the County's administrator, there would be no additional charge for claims that occurred prior to October 1, 2006.

PGCS' first option proposed a fee of \$675 for each lost time and \$160 for each medical only claim reported. In addition, a fee of \$1.30 per line on each medical bill processed would be made to reduce the bills to the State fee schedule. In addition, this option would include an administration fee of \$4,000 per month and other miscellaneous charges projected to amount to approximately \$1,850 per year. The projected annual cost of this option would be \$106,790.



PGCS' second option was based on an annual flat fee of \$90,000 per year with additional charges being made for reducing medical bills to the State fee schedule and other miscellaneous cost estimated at \$1,850 per year. The projected annual cost of this option would be \$103,990.

Unisource offered three (3) separate options. The first option would require them to administer all claims that occur between October 1, 2006 and September 30, 2007 for a fee of \$1,500 for lost time claims and \$135 for medical only claims. For claims that had a date of accident prior to 10/1/06 (that were originally administered by PGCS) Unisource would charge the county a fee of \$750 for lost time claims and nothing for medical only claims. The annual projected cost of this option would be \$82,575.

Unisource's second option was identical to their first except they would only be obligated to administer the claims as long as a contractual relationship between the two parties existed. For this option, Unisource proposed a fee of \$1,200 for lost time claims and \$135 for medical only claims. For claims that occurred prior to 10/1/06, a fee of \$600 per file for lost time claims would be made. Unisource would not make a charge for medical only claims that would have to be assumed. The projected annual cost of this option would be \$69,975.

Unisource also proposed an annual flat fee of \$75,000 for their services that included the assumption of all claims that had a date of accident prior to 10/1/06 and were still active. All three (3) of the proposals offered by Unisource would require the County to reimburse Unisource for the cost to transfer the historical claim information to their computer system. It is estimated that this cost would be approximately \$2,500. The projected annual cost of this option would be \$77,500.

When claim administration programs are evaluated, a number of subjective factors must be considered. First, both PGCS and the County have invested considerable time and effort to ensure their employees that have suffered a job related injury receive quality and prompt medical attention. If a change of administrators were to be made, some of these benefits would be lost and have to be redeveloped over time. Not only could this result in undue hardship for the employees, the medical costs of the claims would undoubtedly increase for a period of time.

Since PGCS has been the claims administrator for a period of time, a relationship between PGCS and the employees has developed. Those employees who have suffered previous workers' compensation injuries have certain expectations on how their claim should be handled. If these expectations are not met, it could result in the injured employee obtaining the services of a lawyer which again will drive up the cost of the claims.

Over the past several years, the laws governing workers' compensation claims have changed. One of the more dramatic changes involves what is commonly referred to as a "Presumption" claims for police officers and fire fighters. Essentially, if a police officer or fire fighter has a heart related condition (regardless of when it manifests itself) it is presumed to be a job related condition. Presumption claims include high blood pressure, hypertension, heart attacks and other similar conditions. PGCS has developed stringent procedures for the administration of such claims and is recognized as one of the premier organizations in the defense of such claims.

### **Summary and Conclusion**

Despite the fact that Unisource presented several attractive proposals and that Unisource is viewed as an extremely capable adjusting firm, a change of claims administrators at this time could result in an increase in the County's claim expenses that would more than offset the lower price that is being offered. It is for this reason, coupled with the relationship that has been developed with the County

staff and its employees it is being recommended that Preferred Governmental Claims Solutions be retained as the County's claims administrator for the period of October 1, 2006 thru September 30, 2007 and that their flat annual fee option be selected.

**SERVICE AGREEMENT  
BETWEEN MONROE COUNTY AND  
PREFERRED GOVERNMENTAL CLAIM SOLUTIONS**

THIS AGREEMENT is entered into this \_\_\_\_ day of September 20\_\_, by and between Preferred Governmental Claim Solutions, a Florida Corporation, hereinafter referred to as "PGCS", and the Monroe County Board of County Commissioners, hereinafter referred to as "COUNTY".

**WHEREAS**, PGCS submitted a bid for the opportunity to manage claims for Workers Compensation services for COUNTY; and

**WHEREAS**, COUNTY accepted the bid submitted by PGCS, wishes to retain the services of PGCS to provide claims management services for its Workers' Compensation risks, and desires to have PGCS provide specific services in connection with such claims program; and

**WHEREAS**, PGCS is willing and has the ability to provide such services.

**NOW THEREFORE** the parties agree as follows:

1. **TERM.** This Agreement shall be effective for a period of One (1) year beginning on the date stated above, and shall remain in full force and effect for one year except as amended or terminated as hereinafter provided. COUNTY, at its sole option, shall have the right to renew the contract for an additional two (2) one (1) year periods.

2. **CANCELLATION.** Either Party shall have the right to terminate the Agreement by giving to the other Party written notice of such termination at least Ninety (90) days in advance. COUNTY shall pay according to FLORIDA PROMPT PAYMENT ACT and under the terms set out in Section 6 of this Agreement. COUNTY'S failure to pay under the Act shall be construed as a breach of the Agreement and, in such event, PGCS shall have the right to terminate the Agreement by giving COUNTY ten (10) days' written notice. An invoice that is in dispute will not qualify as a failure to pay or as a breach of the Agreement.

3. **SERVICES TO BE PERFORMED BY PGCS FOR CLAIMS ADMINISTRATION.** PGCS agrees to perform the following services with regard to CLAIMS ADMINISTRATION, PGCS shall:

- a. Review all claim and loss reports submitted by COUNTY to PGCS during the term of this Agreement and process each submitted claim or loss report in accordance with Florida Statutes.
- b. Conduct an investigation of each reported claim or loss under subparagraph "a" above (hereinafter referred to as a "qualified claim or loss") consistent with standards and in sufficient detail to determine the compensability of each claim.
- c. Maintain a file for each qualified claim or loss which shall be available for review by COUNTY at any reasonable time.
- d. Adjust settle or resist all qualified claims or losses arising from COUNTY'S Workers' Compensation program with no claims being settled without the prior Approval of COUNTY.
- e. Perform reasonable and necessary administrative and clerical work in connection with each qualified claim or loss, including the preparation of checks or vouchers, compromises, releases, agreements and any other documents to finalize a claim.
- f. Recommend claim reserves and provide a continuous review and updating of

- these to reflect changes
- g. PGCS will assist COUNTY in arranging a loss and expense payment account.
- h. Provide notice of claims and routine status reports to COUNTY'S Excess Insurer in accordance with the Excess Insurer's standard reporting requirements. COUNTY will provide PGCS with the name, address and telephone number of its Excess Insurer. PGCS will fully cooperate with COUNTY'S Excess Insurer and take no action, or lack of action that will jeopardize COUNTY'S rights to recovery under the policy.
- i. Coordinate investigations on litigated claims with attorneys approved by COUNTY and with adjusters and attorneys of the excess insurance carrier as required. This includes the negotiation of settlements and preparation of subrogation and contribution actions. It is expressly understood by the Parties to this Agreement that all legal costs and loss payments will be charged to COUNTY'S Loss Fund.
- j. All sizable and unusual claims will be reviewed by PGCS's staff at no additional cost to COUNTY, to ensure efficient and proper administration is provided.
- k. PGCS will furnish one set of loss and information reports (as specified in PGCS's proposal) to: COUNTY'S Insurance Agent, COUNTY'S Risk Management Consultant and COUNTY'S Excess Insurer.
- l. Additional optional and ad hoc information and analysis reports and services can be provided on a time and expense basis, as mutually agreed upon by PGCS and COUNTY.
- m. Provide COUNTY and its Excess Insurer with narrative or analytical reports on all qualified claims with a total incurred in excess of \$50,000, every ninety (90) days.
- n. Provide COUNTY with claim and other forms mandated by the State of Florida's statutes and regulations to ensure efficient administration of COUNTY'S self-insured Workers' Compensation program.
- o. Investigate and pursue all subrogation and Second Injury Disability Trust Fund possibilities (to the extent permitted by law) on behalf of COUNTY. COUNTY will receive the benefit of all recoveries associated with these activities.
- p. Provide all personnel necessary to effectively perform the services agreed to herein.

**4. SERVICES TO BE PERFORMED BY PGCS FOR WORKERS' COMPENSATION AND MEDICAL CONTROL.** With regard to WORKERS' COMPENSATION and MEDICAL CONTROL, PGCS shall:

- a. Arrange for independent medical or other experts in connection with processing qualified claims or losses as is mutually agreeable to PGCS and COUNTY.
- b. Pay medical and death benefits, temporary and permanent disability compensation and other losses and expenses by only if in the judgment of PGCS, such payment would be prudent for COUNTY and the anticipated amount thereof does not exceed the stated settlement authority or, in any case, COUNTY specifically approves or directs such action.
- c. Assist in COUNTY'S selection of a panel of physicians or other providers of health care to initially treat employees and a panel of medical specialists to provide long-term or specialty care.

- d. Consult with COUNTY in order to develop ways of using any medical facility more effectively.
- e. Monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing medical reports so prepared and by maintaining contact with the providers as is consistent with industry standards.
- f. As COUNTY directs, assist in interpreting medical reports to consider the circumstances under which an injured employee who desires to do so could return to work in the shortest period of time without adversely affecting the employee's recovery.
- g. Assist COUNTY in arranging for rehabilitation or retraining of employees in appropriate cases; charges for these programs shall be considered allocated expense and charged to COUNTY.
- h. Represent COUNTY at all hearings, mediations and trials at no additional costs. With the specific approval of COUNTY, which will be proved on a case by case basis, such representation may be conducted by telephone.
- i. Conduct quarterly meetings (at no charge) with COUNTY officials to review the claim activity and develop methods for reducing the claim costs. Such meetings shall take place at COUNTY'S offices in Key West, Florida or at the offices of PGCS located in Lake Mary, Florida.

#### **5. SERVICES TO BE PERFORMED BY PGCS FOR PROGRAM DEVELOPMENT.**

With regard to PROGRAM DEVELOPMENT, PGCS shall:

- a. Consult with key personnel of COUNTY on the establishment and coordination of necessary procedures and practices to meet any applicable state requirements and needs of COUNTY.
- b. Participate in the orientation of COUNTY'S personnel who are directly or indirectly involved in the processing of qualified claims or losses.
- c. Review the development of COUNTY'S program periodically with representatives of COUNTY in order to identify problems and recommend corrective action.

#### **6. COMPENSATION TO PGCS.**

a. Total Compensation to PGCS under this Agreement shall not exceed Ninety Thousand Dollars (\$90,000.00) for the first year. If COUNTY exercises its option to renew, the compensation for additional years shall be Ninety-Four Thousand Five Hundred Dollars (\$94,500.00) for second year and One Hundred Thousand Dollars (\$100,000.00) for the third year. Pricing is for Worker's Compensation, including Medical only and Lost Time Claims Administration. Pricing is on a flat rate basis with invoicing performed on a monthly basis. 1099 are to be processed for a \$10.00 fee per form. All report filing includes excess reporting, monthly loss reports, quarterly large loss reports, check processing, check register reports and BSI-17's.

b. COUNTY'S performance and obligation to pay under this agreement, is contingent upon annual appropriation by the Board of County Commissioners.

c. COUNTY shall at all times provide funds adequate for the payment of qualified claims or losses and of allocated loss expenses. For this purpose, allocated loss expenses shall mean all costs, charges or expenses of third parties incurred by PGCS, its agents or its employees, which are properly chargeable to a qualified claim or loss including, without limitation, court costs, independent investigators, experts and witnesses and fees for obtaining diagrams, reports, documents and photographs. It is expressly understood that all fees and expenses of attorneys will be paid directly by COUNTY and upon receipt of such invoices. PGCS, shall prepare a voucher and forward it with the original invoice to County's Workers'

Compensation Manager for review and processing. If COUNTY makes adjustments to the invoice before paying, PGCS will be notified of such Adjustments by County's Workers' Compensation Manager and PGCS will adjust their payment records to reflect the actual amount paid.

d. It is expressly understood that PGCS shall not be required to advance its own funds to pay losses, allocated loss expenses or banking charges hereunder, or to perform any services hereunder if COUNTY fails to provide adequate funds as herein set forth.

e. Parties agree that fee include, but is not limited to 1) Administer to conclusion all Worker's Compensation Lost Time and Medical Only Claims, 2) Reduce all medical bills associated with the County's Workers' Compensation claims to the State Fee Schedule, 3) Prepare and file on behalf of the County all mandated State Reports, 4) prepare and distribute 1099's as required by law.

f. The annual fee as stated in paragraph 6a above is a flat annual fee to be paid in 12 equal payments.

**7. DISCRETIONARY DISBURSEMENT AUTHORITY LIMIT.** The limit on any discretionary payment by PGCS for a qualified claim or loss or for allocated loss expenses, as the case may be, shall be Five Thousand Dollars (\$5,000) initially. This amount may be changed at any time by COUNTY upon written notice to PGCS. It is agreed that PGCS shall have full Authority and control in all matters pertaining to the payment, processing, investigation and administration of qualified claims or losses with the limit established by this paragraph with exception of fees and expenses paid to attorneys which will be paid directly by COUNTY. PGCS will make no payment in excess of the Discretionary Disbursement Authority Limit without obtaining Prior approval of County Administrator or his designee. It is further agreed that all checks or drafts in amount in excess of \$1,000 will require the Signature of two PGCS employees in supervisory positions. All payments in excess of \$5,000 will require the written authorization of County Administrator before being issued.

**8. TERMS OF AGREEMENT AND CANCELLATION.**

a. In the event of cancellation or non-renewal of this Agreement, COUNTY, at its sole option, may require that all open claims be transferred to its new administrator or require PGCS to continue administering the claims to conclusion. If COUNTY elects that PGCS is to continue administering the claims, a service fee of One Hundred Dollars (\$100) per file per month will be paid for as long as the claim remains open. PGCS will treat as confidential all data furnished by COUNTY or generated as a result of the processing services performed under this Agreement and any other information so designated in writing by COUNTY, and PGCS will make the same effort to safeguard such information as it does in protecting its own confidential data. PGCS reserves the right to gather and utilize, as it sees fit, statistical information from the data base; provided however, that COUNTY'S name and proprietary and/or confidential data are adequately protected and not disclosed.

b. In the event of cancellation or non-renewal of this Agreement, PGCS shall provide, at no charge to COUNTY, detailed history of all claims processed during the term of this Agreement on Electronic Data Processing Media. PGCS will cooperate with COUNTY or its new Administrator with all reasonable requests regarding the method and format of the information to be provided. Shipping of all physical claims will be at the sole expense of COUNTY.

**9. PRACTICE OF LAW.** It is understood and agreed that PGCS will not perform, and COUNTY will not request performance of any services which may constitute the unauthorized practice of law.

**10. INDEMNIFICATION, HOLD HARMLESS AND INSURANCE.**

a. PGCS shall be fully responsible for exercising reasonable care at all times in the performance of its obligations hereunder.

b. Nothing in this Agreement shall be construed to indicate that COUNTY will in any way indemnify or hold harmless PGCS. PGCS and COUNTY agree that nothing in this Agreement shall be construed to extend the protections of Florida Statute 768.28 to PGCS.

c. PGCS shall indemnify and hold MONROE COUNTY BOARD OF COUNTY COMMISSIONERS harmless from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by PGCS occasioned by the negligence, errors, or other wrongful act or omission of PGCS, its employees, or agents.

d. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement. Failure of PGCS to comply with the requirements of this section shall be cause for immediate termination of this agreement.

e. Prior to execution of this agreement, PGCS shall furnish, at their own expense, to the COUNTY Certificates of Insurance or a Certified Copy of the actual insurance policy, indicating the minimum coverage limitations in the following amounts:

**WORKERS COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE.**

Where applicable, coverage to apply for all employees at a minimum statutory limits as required by Florida Law.

**COMPREHENSIVE AUTOMOBILE VEHICLE LIABILITY INSURANCE:**

Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

**COMMERCIAL GENERAL LIABILITY.** Commercial general liability coverage with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.

**CERTIFICATES OF INSURANCE.** Original Certificates of Insurance shall be provided to the COUNTY at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the County before any policy or coverage is canceled or restricted. The underwriter of such insurance shall be qualified to do business in the State of Florida. If requested by the County Administrator, the insurance coverage shall be primary insurance with respect to the County, its officials, employees, agents and volunteers.

f. The parties agree to the insurance requirements as set out in Attachment A attached hereto and made a part hereof.

**11. NOTICES.** Any notice required to be given under this Agreement shall be sent by certified mail to the following:

FOR COUNTY  
Monroe County  
Manager of Worker's Compensation

FOR PGCS  
Mr. Kevin Cothon  
Vice President

Gato Building  
1100 Simonton Street  
Suite 2-268  
Key West, FL 33040

Preferred Governmental  
Claim Solutions  
P.O. Box 958456  
Lake Mary, FL 32795-84456

12. **HEADINGS.** Headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

13. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, COUNTY and PGCS agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

15. **NON-DISCRIMINATION.** COUNTY and PGCS agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. COUNTY or PGCS agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101- 6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of this Agreement.

16. **WAIVER.** A waiver by either party of any breach of this Agreement shall not be binding upon the waiving party unless such waver is in writing signed by authorized person for PGCS and approved by BOCC. In the event of a written waiver, such waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.



17. **SEVERABILITY.** The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace and stricken provision with a provision that comes as close as possible to the intent of the stricken provision.

18. **ENTIRETY OF AGREEMENT.** The parties agree that this Agreement sets forth the entire agreement between them, and that there are not promises or understandings other than those stated herein. This Agreement supersedes all prior contracts, representations, negotiations, letters or other communications between COUNTY and PGCS pertaining to the services, whether written or oral. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

19. **MODIFICATION.** This Agreement may not be modified unless such modifications are evidenced in writing signed by both COUNTY and PGCS. Such modifications shall be in the form of a written Amendment executed by both parties.

20. **SUCCESSORS AND ASSIGNS, ASSIGNMENT.** COUNTY and PGCS each binds itself and its partners, successors, assigns and legal representatives to the other party to this Agreement and to the other party's partners, successors, assigns and legal representatives. PGCS shall not assign this Agreement without express written approval of the BOCC executed in the same manner as this Agreement.

21. **AUTHORITY.** Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

20. **NON-RELIANCE BY NON-PARTIES.** No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and COUNTY and the PGCS agree that neither COUNTY nor PGCS or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

22. **AGREEMENT SUBJECT TO ANNUAL APPROPRIATION.** Monroe County's performance and obligation to pay under this contract, is contingent upon an annual appropriation by the Board of County Commissioners of Monroe County.

23. **ATTESTATIONS.** PGCS agrees to execute such documents as COUNTY may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

24. **NO PERSONAL LIABILITY.** No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

25. **INDEPENDENT CONTRACTOR.** At all times and for all purposes hereunder, PGCS is an independent contractor and not an employee of COUNTY. No statement contained in this Agreement shall be construed as to find PGCS or any of its employees, contractors, servants or agents to be employees of COUNTY.

26. **CONFLICT OF INTEREST.** PGCS assures COUNTY that, to the best of its knowledge, information and belief, the signing of this Agreement does not create conflict of interest that during the time of this Agreement PGCS will not undertake representation of any parties to or before COUNTY seeking to obtain contracts or other benefits from COUNTY.

27. **OWNERSHIP OF DOCUMENTS.** All documents which are prepared in the performance of this Agreement are to be and shall remain, the property of COUNTY and shall be delivered to the Workers' Compensation Manager at any time upon request and no later than thirty (30) days after termination of this Agreement.

28. **DEFINITIONS OF "MEDICAL CASES ONLY" AND "LOST TIME CASES".** The following definitions shall apply:

"Medical Only Cases" shall mean injuries that require medical treatment for which charges will be incurred, whether or not they are submitted to COUNTY, but which does not result in the disability of the employee, as defined by Florida Statute 440.02(13), for more than seven (7) days as a result of the injury.

"Lost Time Cases" shall mean injuries which result in the disability of the employee, as defined by Florida Statute 440.02(13), for more than seven (7) days.

29. **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first written above.

(SEAL)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY  
COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor Charles "Sonny" McCoy

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Witness to PGCS:

Preferred Governmental Claim Solutions

Signature \_\_\_\_\_

BY: \_\_\_\_\_  
Authorized to Sign for Corporation

Print Name \_\_\_\_\_

Print Name Kevin Cochran

Date: \_\_\_\_\_

Date: 9-6-06

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
Natleene W. Casel  
NATILEENE W. CASSEL  
ASSISTANT COUNTY ATTORNEY  
Date 9-6-06

**General Insurance Requirements  
for  
Contract Between Preferred Governmental Claims Solutions  
and  
Monroe County, Florida**

**Attachment A**

As a pre-requisite of the work governed, or the goods supplied under this contract (including the pre-staging of personnel and material), PGCS shall obtain, at their own expense, insurance as specified in any attached schedules, which are made part of this contract. PGCS will ensure that the insurance obtained will extend protection to all Subcontractors engaged by PGCS. As an alternative, PGCS may require all Subcontractors to obtain insurance consistent with the attached schedules.

PGCS will not be permitted to commence work governed by this contract (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the County as specified below. Delays in the commencement of work, resulting from the failure of PGCS to provide satisfactory evidence of the required insurance, shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work commenced on the specified date and time, except for PGCS' failure to provide satisfactory evidence.

PGCS shall maintain the required insurance throughout the entire term of this contract and any extensions specified in the attached schedules. Failure to comply with this provision may result in the immediate suspension of all work until the required insurance has been reinstated or replaced. Delays in the completion of work resulting from the failure of PGCS to maintain the required insurance shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work had not been suspended, except for PGCS' failure to maintain the required insurance.

PGCS shall provide, to the County, as satisfactory evidence of the required insurance, either:

- Certificate of Insurance
- or
- A Certified copy of the actual insurance policy.

The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this contract.

All insurance policies must specify that they are not subject to cancellation, non-renewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

The acceptance and/or approval of the Contractor's insurance shall not be construed as relieving PGCS from any liability or obligation assumed under this contract or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies, except for Workers' Compensation.

Any deviations from these General Insurance Requirements must be requested in writing on the County prepared form entitled "Request for Waiver of Insurance Requirements" and approved by Monroe County Risk Management.